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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,513	06/20/2000	Alan Collmer	19603/3306 (CRF D-2136B)	5828

7590

11/12/2002

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EXAMINER

KUBELIK, ANNE R

ART UNIT

PAPER NUMBER

1638

DATE MAILED: 11/12/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	09/597,513	COLLMER ET AL.	
	Examiner	Art Unit	
	Anne R. Kubelik	1638	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Anne R. Kubelik. (3) ____.
- (2) Edwin V. Merkel. (4) ____.

Date of Interview: 8 November 2002 .

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: ____ .

Claim(s) discussed: all .

Identification of prior art discussed: ____ .

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet .

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

- i) ☐ It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: New matter rejection: Applicant urged that Figure 3 and Examples 5 and 10 show that the nucleic acid is present in a variety of bacterial species and that they have the right to exclude prior art. Examiner said that that exclusion must be explicitly recited in the specification for it to not be new matter. Applicant stated that case law supports their assertion and will cite it in the response to the first Office action.

Hybridization conditions: Examiner explained that salt concentration, temperature and time are required for both hybridization and wash conditions for enablement, written description and indefiniteness - there is no way to know which nucleic acids fall within the scope of the claim or how to isolate the claimed nucleic acids unless those conditions are recited.

Functional language for encoded protein discussed - Examiner will seek guidance to determine if "hypersensitive reponse elecitor" or "protein that induces a hypersensitive reponse in a plant" is specific enough to meet written description requirement or if what the protein binds to or what reaction it catalyzes must be recited.

Prior art: It was agreed that if the issues above were resolved satisfactorily, then the prior art rejections would be obviated..

